Honorable Judge Barbara J. Rothstein

IN THE UNITED STATES DISTRICT COURT

FOR THE WESTERN DISTRICT OF WASHINGTON

AT SEATTLE

CHONG and MARILYN YIM, KELLY LYLES, EILEEN, LLC, and RENTAL HOUSING ASSOCIATION OF WASHINGTON, Plaintiffs, v. THE CITY OF SEATTLE, a Washington Municipal corporation, Defendant.	Civil Action No. 2:18-cv-00736-BJR **PLAINTIFFS' MOTION TO AMEND JUDGMENT**

Pursuant to Rules 59(e) and 60(a), (b)(1), Plaintiffs Chong and Marilyn Yim, Kelly Liles, Eileen, LLC, and Rental Housing Association of Washington respectfully move this Court to amend its July 23, 2024, Judgment (Dkt. No. 125) to correct what appears to be a clerical mistake and/or oversight. After conferring on this motion, Defendant the City of Seattle indicated disagreement with Plaintiffs' position and declined Plaintiffs' request to file this motion unopposed.

The Court's Judgment designates the City of Seattle as the sole prevailing party in this matter. Dkt. No. 125. That is incorrect. As this Court noted in its Order re: Severance, the City

Pacific Legal Foundation
1425 Broadway #429
Seattle, Washington 98122
(425) 576-0484

only prevailed on Count II of the Complaint. Dkt. No. 124 at 2; *see also* Dkt. No 1-1 at 13–15 (Complaint). Plaintiffs prevailed on their First Amendment claim. Dkt. No 1-1 at 14 (Count I); *Yim v. City of Seattle*, 63 F.4th 783, 798 (9th Cir. 2023) (holding that the Ordinance's inquiry provision violated the First Amendment's commercial speech doctrine).

The cross-motions for summary judgment regarding severance did not seek to alter the Ninth Circuit's ruling in favor of Plaintiffs. Instead, the motions argued only the extent of relief that Plaintiffs are entitled to on their claim for declaratory judgment under the First Amendment. Dkt. Nos. 114, 120, 122. This Court's ruling in favor of the City's request for more limited relief (striking only the inquiry provision) does not change the fact that Plaintiffs prevailed on Count I of the Complaint. Dkt. No. 124.

Rule 60(b)(1) authorizes this Court to correct the clerical mistake or oversight that resulted in Seattle being designated the sole prevailing party in this case. *Kemp v. United States*, 596 U.S. 528, 534–35 (2022); *see also Wheeling Downs Race Track & Gaming Center v. Kovach*, 226 F.R.D. 259 (N.D.W.Va. 2004) (naming of incorrect party as prevailing party in judgment order was clerical error, and thus could be corrected where findings of fact and conclusions of law were clear as to outcome); *Sifers Corp. v. Arizona Bakery Sales Co.*, 133 F.R.D. 607, 609 (D. Kan. 1991) (Rule 60 authorizes courts to correct an error designating the wrong party as the prevailing party).

For these reasons, Plaintiffs respectfully request that the Court amend the Judgment to designate Plaintiffs as the prevailing party on the First Amendment claim (Count I). And according to their prayer for relief under Ch. 7.24 RCW (Uniform Declaratory Judgment Act) (Dkt. No. 1-1 at 18–19), Plaintiffs request that the Judgment (1) declare the Fair Chance Housing Ordinance's "inquiry provision" unconstitutional, (2) permanently enjoin the City from enforcing the offending language as indicated in the Order re: Severance (Dkt. No. 124 at 6–7), and (3) allow Plaintiffs to file an application for costs authorized by RCW 7.24.100 and RCW 4.84.010.

Pacific Legal Foundation
1425 Broadway #429
Seattle, Washington 98122
(425) 576-0484

DATED: July 25, 2024.

Respectfully submitted,

By: s/ BRIAN T. HODGES
Brian T. Hodges, WSBA # 31976
By: s/ ETHAN W. BLEVINS
Ethan W. Blevins, WSBA # 48219
Pacific Legal Foundation
1425 Broadway # 429
Seattle, Washington 98122
Telephone: (425) 576-0484
Fax: (916) 419-7747
Email: BHodges@pacificlegal.org
Email: EBlevins@pacificlegal.org

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification to all counsel of record.

Dated: July 25, 2024.

s/ BRIAN T. HODGES
Brian T. Hodges, WSBA # 31976

Attorney for Plaintiffs

Pacific Legal Foundation
1425 Broadway #429
Seattle, Washington 98122
(425) 576-0484